



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,811	07/09/2003	Masahiko Ogawa	240004US0CONT	8031
22850	7590	05/28/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			ELHILO, EISA B	
			ART UNIT	PAPER NUMBER
			1751	

DATE MAILED: 05/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/614,811	Applicant(s) OGAWA ET AL.	
	Examiner Eisa B Elhilo	Art Unit 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/722,483.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/9/03 and 12/01/03</u> | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1751

Claims 3-14 are pending in this application.

DETAILED ACTION

Claim Objections

1. Claim 6 is objected to because of the following informalities: The claim recites the limitation "temperature ranging from about 10 to 30 minutes". The minutes used in the claim should be change to the degree as a temperature unit in order to make the claim clear and more definite. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Massoni (US 6,187,058) in view of Chan et al. (US 5,368,610).

Massoni (US' 058) teaches a method for dyeing hair comprising applying to the hair a dyeing composition comprising from 0.1 to 5.0% of quaternary ammonium salts (see col. 4, lines 35-45), from 2 to 15% of sodium carbonate (see col. 4, lines 25-31), chelating agent of ethylene diamine tetracarboxylic acid in the amount of 0.05% (see col. 3, lines 11-12 and col. 5, Example D2) and oxidizing agent of hydrogen peroxide in the percentage amount of 6% as claimed in claim 4 (see col. 3, lines 3-7 and col. 5 Example D2), wherein the components of the dyeing composition are packed separately and are mixed together in an applicator bottle and then applied to human hair for 30 minutes to produce the color as claimed in claims 5-6 (see col. 5, lines 1-4). The pH

Art Unit: 1751

of the hair dyeing composition has a range of 6 to 12, which is overlapped with the claimed range (see col. 4, lines 20-22). Regarding, the ratio of A to B, it would have been obvious to one having ordinary skill in the art at the time the invention was made to calculate such a molar ratio by optimizing the amount of the alkalizers in the composition so as to get the maximum effective amount because the reference teaches alkalizing components of carbonate and ammonium compound in the amounts within or overlapped with the claimed amounts, and, thus, a person of ordinary skill in the art would expect the composition that applied by such a method to have similar properties to those claimed, absent unexpected results. Further, regarding the temperature of the applied dyeing composition, it would have been obvious to one having ordinary skill in the art to apply the dyeing composition at an ambient temperature because the reference is silent about the temperature of the dyeing composition and, thus, the person of an ordinary skill in the art would expect that the temperature of the dyeing composition is not critical since the dyeing composition would normally applied to the human hair at an ambient temperature, absent unexpected results.

Although Massoni (US' 058) teaches a method for dyeing hair comprising applying to the hair a dyeing composition comprising chelating agents, carbonates, ammonia salts and oxidizing agents, the reference does not teach or disclose a water soluble salts of iron as claimed.

Chan et al. (US' 610) teaches in analogous art of hair dyeing formulations, a method for dyeing hair comprising applying to the hair a dyeing composition comprising ferrous sulfate in the amount of 0.025% (see col. 15, Example 10) and the dyed hair was shampooed and rinsed with water (see col. 15, lines 54-55). It is further taught by Chan et al. (US' 610), that the dyeing

Art Unit: 1751

composition that comprises iron salt provides a darker color on hair compared to the hair treated with a composition that does not contain iron salt (see col. 15, lines 55-60).

Therefore, in view of the teaching of the secondary reference of Chan et al. (US'610), one having ordinary skill in the art at the time the invention was made would be motivated to modify the method of Massoni (US' 058) by applying to the hair a dyeing composition that comprises ferrous sulfate as a water soluble salt of iron as taught by Chan et al. (US' 610) with a reasonable expectation of success. Such modification would be obvious because the reference of Chan et al. (US' 610) clearly teaches that the application of the dyeing composition that comprises ferrous sulfate to the hair provides a darker color on hair (see col. 15, lines 55-60), and, thus, a person of an ordinary skill in the art would be motivated to apply a dyeing composition that comprises a water soluble salt of iron for obtaining a dark coloration on hair, and would expect such a method to have similar properties to those claimed, absent unexpected results.

Conclusion

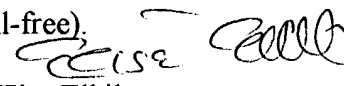
The references listed on from 1449 have been reviewed by the examiner and are considered to be cumulative to or less material than the prior art references relied upon in the rejection above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (571) 272-1315. The examiner can normally be reached on M - F (8:00 -5:30) with alternate Friday off.

Art Unit: 1751

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Eisa Elhilo
Patent Examiner
Art Unit 1751

May 25, 2004